

FILED  
U.S. DISTRICT COURT  
DISTRICT OF MARYLAND  
**UNITED STATES DISTRICT COURT**  
**DISTRICT OF MARYLAND** 2019 JUL 29 PM 5:50

Chambers of  
**Ellen Lipton Hollander**  
District Court Judge

*Clerk's Office*  
AT BAR 101 West Lombard Street  
Baltimore, Maryland 21201  
410-962-0742  
BY \_\_\_\_\_ DEPUTY

July 29, 2019

MEMORANDUM TO COUNSEL

Re: *Graham v. Cox, et al.*  
Civil Action No. ELH-18-221

Dear Counsel:

I received Mr. Siff's correspondence dated July 22, 2019 (ECF 48), seeking clarification of the Memorandum and Order of June 20, 2019 (ECF 44, ECF 45). There, the Court vacated its previous grant of summary judgment to defendants, as set forth in its Memorandum Opinion and Order of March 29, 2019. ECF 39, ECF 40. In ECF 39, I concluded that (1) the "official capacity" claims against the defendants were barred by the Eleventh Amendment; and (2) all factual disputes were resolved in favor of the defendants because of plaintiff's repeated failure to provide a sworn statement in support of his factual averments.

In the Memorandum of June 20, 2019 (ECF 44), I noted that plaintiff's Declaration "creates a dispute of material fact as to what occurred during plaintiff's arrest." *Id.* at 2-3. Therefore, I reopened the case so that plaintiff's claims relating to those factual issues may proceed. However, I see no basis to disturb the prior conclusion I reached in ECF 39, to the effect that any claims under 42 U.S.C. 1983, asserted by plaintiff against defendants in their official capacity, are barred by the Eleventh Amendment. *Id.* at 15-17. Therefore, those claims should not be reopened. I apologize for any confusion.

Despite the informal nature of this memorandum, it shall constitute an Order of this Court.

Very truly yours,

\_\_\_\_\_  
/s/

Ellen Lipton Hollander  
United States District Judge